

B. APPLICANT'S REMARKS

Claims 1-20 are pending in this Application. Reconsideration of Claims 1-20 is respectfully requested. The Examiner's rejections will be considered in the order of their occurrence in the Office Action.

The Official Action rejected as-filed Claims 1, 5-11 and 15-20 under 35 U.S.C. §102(b) as being anticipated by Black (U.S. Patent No. 5,664,739). The Applicant respectfully disagrees with this rejection for at least the following reasons.

It is important to first briefly discuss 35 U.S.C. §102 and its application to the present application. Under 35 U.S.C. §102(b), anticipation requires that the prior art reference both (1) disclose, either expressly or under the principles of inherency, every limitation of the claim, and (2) be enabling thus placing the allegedly disclosed matter in the possession of the public.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Hence, under 35 U.S.C. §102, anticipation requires that each and every element of the claimed invention be disclosed in the prior art. *W.L. Gore & Assocs. v. Garlock, Inc.*, 220 USPQ 303, 313 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984). Anticipation also requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). In addition, the prior art reference must be enabling, thus placing the allegedly disclosed matter in the possession of the public. *Akzo N.V. v. United States Int'l Trade Comm'n*, 1 USPQ 2d 1241, 1245 (Fed. Cir. 1986), cert. denied, 482 U.S. 909 (1987) (emphasis added).

Independent Claim 1 has the following features:

1. An elongate material dispenser system, comprising:
an end member including a tongue member extending from an end shoulder,
wherein said tongue member has a plurality of teeth on opposing sides; and
a handle structure including a first prong and a second prong;
wherein said first prong includes a first engaging member and a **first positive member**;
wherein said second prong includes a second engaging member and a **second positive member**;
wherein said engaging members and **said positive members catchably engage said teeth**.

Independent Claim 11 has the following features:

11. An elongate material dispenser system, comprising:
an handle structure including a tongue member extending from a handle shoulder,
wherein said tongue member has a plurality of teeth on opposing sides; and
an end member including a first prong and a second prong;
wherein said first prong includes a first engaging member and a **first positive member**;
wherein said second prong includes a second engaging member and a **second positive member**;
wherein said engaging members and **said positive members catchably engage said teeth**.

The Office Actions states that the '739 patent teaches "*a first positive member (shoulder to right of 136) ... [and] a second positive member (shoulder to right of 136) [that] catchably engage said teeth.*" (Office Action, Page 2.) However, Figure 9 shows that the "shoulder to the right of 136" does not extend inwardly as far as the engaging member 136. Furthermore, Figure 10 of the '739 patent shows that the "shoulder to the right of 136" does not "catchably engage said teeth." In fact, the shoulders to the right of 136 do not even touch the teeth as shown in Figure 10. This is a significant feature of the present invention and is a significant improvement over the '739 patent to ensure proper gripping of the teeth.

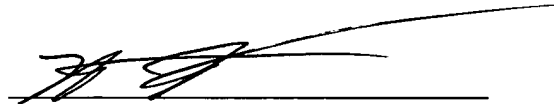
The Applicant respectfully submits that the '739 patent does not qualify as appropriate prior art under 35 U.S.C. §102(b) as the '739 patent does not disclose (expressly or inherently) all of the features of independent Claims 1, 11. Therefore, Applicant respectfully submits that

independent Claims 1, 11 are patentable over the cited reference for at least these reasons. Accordingly, Applicant respectfully requests that the Examiner withdraw the outstanding rejection as applied to independent Claims 1, 11 (and the corresponding dependent claims), since the application is in condition for allowance.

C. CONCLUSION

In light of the foregoing amendments and remarks, early reconsideration and allowance of this application are most courteously solicited. Should the Examiner consider necessary or desirable any formal changes anywhere in the specification, claims and/or drawing, then it is respectfully asked that such changes be made by Examiner's Amendment, if the Examiner feels this would facilitate passage of the case to issuance. Alternatively should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, they are invited to telephone the undersigned.

Respectfully submitted,



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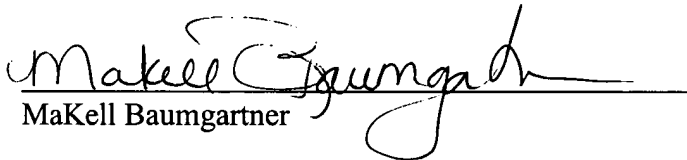
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On February 3, 2006.


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